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- | | |
|--|---|
| (3) Manufacturing of Stainless steel equipments and vessels. | 6 |
| (4) Manufacturing of containers from G.P. sheets and other sheets. | 2 |
| (5) Manufacturing of steel chair and other furniture. | 1 |
| (6) Automobile repair shops | 7 |

(b)—The following are the Industrial Institutes in the area for imparting technical training :—

(a) Alagappa Chettiar Engineering College, Karaikudi, Ramanathapuram district.

(b) Alagappa Polytechnic, Karaikudi.

(c) & (d)—There is a proposal to establish an Industrial Estate in a site about 3 miles south of Karaikudi on the Karaikudi-Devakottai Road near Amaravathiputhur village at a cost of Rs. 9.69 lakhs. The work will be taken up in 1961-62. It is reported that the water table in this place is quite high and water is available within 20' to 25' from ground level. The 22 K.V. Line of the Electricity Board is running adjacent to this site and no difficulty is anticipated in getting power supply.

APPENDIX V.

[Vide item (1), Presentation of reports on page 45 supra.]

REPORT OF THE SELECT COMMITTEE ON THE MADRAS PAWNBROKERS (AMENDMENT) BILL, 1960 (L.A. BILL No. 30 OF 1960).

To

THE HONOURABLE THE LEGISLATIVE ASSEMBLY,
Madras.

The Select Committee appointed to consider the Madras Pawnbrokers (Amendment) Bill, 1960 (L.A. Bill No. 30 of 1960), has the honour to make the following report.

2. The Bill was published in English in Part IV-A of the *Fort St. George Gazette* Extraordinary, dated the 15th June 1960 and in Tamil in the *Fort St. George Gazette*, dated the 6th July 1960.

3. The Committee was appointed by a resolution of the Assembly, dated the 20th August 1960.

4. Seven Members of the Legislative Council were also invited to serve on the Select Committee.

5. At its first meeting held on the 26th December 1960 in the Committee Room, Legislators' Hostel, Mount Road, Madras, the Committee heard the evidence tendered by the representatives of the Financiers' and Money-Lenders' Associations.

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6. The Select Committee met in all on four days (26th December 1960 and in the Lounge Room, Fort St. George, on the 24th, 31st January and 27th July 1961) and subjected the Bill to a thorough scrutiny and as a result has made some important changes, which are noted below :—

Clause 4.

This clause seeks to amend sub-section (1) of section 6 of the Act. In the original Bill it was provided that no pawnbroker shall charge interest in respect of a loan on a pledge at a rate exceeding 12 per cent per annum simple interest in the case of loans of twenty-five rupees and below and nine per cent per annum simple interest in other cases. The Committee decided that twelve per cent per annum simple interest in the case of loans of one hundred and fifty rupees and below and ten and a half per cent per annum simple interest in other cases might be fixed. The clause has been amended accordingly.

Clause 5.

This clause provides for substitution of new section for section 8 relating to conditions for redemption of pledge. The Committee decided to delete the provision in sub-section (7) (b) of the proposed new section 8, as the provision for the filing of an inter-pleader suit was not considered necessary.

Clause 8.

This clause introduces a new section 10-A after section 10, requiring the pawnbrokers to keep the pawned articles in his licensed place of business to facilitate their inspection by the pawner.

The Committee decided that no arrests should be made by the Police officials without obtaining a warrant from a Magistrate. The Committee also decided that the enforcement of the provisions of the Bill should be entrusted to the officers of the Revenue Department. The new section 10-B, after section 10-A incorporates the decisions of the Committee.

Clause 12.

This clause seeks to substitute a new section for the existing section 16. The Committee decided that the penal provision provided for in the proposed section, i.e., imprisonment for a term which may extend to one year or fine which may extend to one thousand and five hundred rupees or both, might be amended providing for imprisonment for six months or a fine of rupees one thousand or both. The clause has been amended accordingly.

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New Clause 13.

As provisions for enforcing the Act have been incorporated in the proposed new section 10-B in clause 8 of the Bill, a new clause—Clause 13 has been introduced in the Bill providing for deletion of section 20 of the Act which provides for arrest without warrant by any Police officer. Old clause 13 of the Bill has been renumbered as clause 14.

Clause 14.

Sub-clause (2) provides that all rules made under this Act shall be placed on the table of both the Houses of the Legislature and shall be subject to such modification by way of amendment or repeal as the Legislature may make in the same session or in the next session. The Committee decided that the model clause recommended by the Committee on Subordinate Legislation might be adopted. This has been adopted in new clause 15 in the Bill as approved by the Select Committee.

7. A copy of the Bill as amended and approved by the Select Committee is annexed to this report.

8. The Committee considers that the changes made by it are not of such important character as to require the republication of the Bill.

FORT ST. GEORGE,
MADRAS-9, 27th July 1961.

M. A. MANICKAVELU,
Chairman.

ANNEXURE.

(Vide paragraph 7 of the report.)

THE MADRAS PAWNBROKERS (AMENDMENT) BILL 1960.

(NOTE—The changes made are sidlined or underlined and the portions omitted are indicated by dots).

A Bill further amend the Madras Pawnbrokers Act, 1943.

WHEREAS it is expedient further to amend the Madras Pawnbrokers Act, 1943 (Madras Act XXIII of 1943), for the purposes hereinafter appearing;

BE it enacted in the Twelfth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Madras Pawnbrokers (Amendment) Act, 1961.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

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2. *Amendment of section 2, Madras Act XXIII of 1943.*—In section 2 of the Madras Pawnbrokers Act, 1943 (Madras Act XXIII of 1943) (hereinafter referred to as the principal Act)—

(i) after clause (3), the following clause shall be inserted, namely :—

“(3-A) ‘Inspector’ means an Inspector appointed under sub-section (1) of section 10-B;”;

(ii) in sub-section (ii) of clause (5), for the words, figures and letter “section 277-F of the Indian Companies Act, 1913”, the words, figures, brackets and letter “section 5 (1) (c) of the Banking Companies Act, 1949 (Central Act X of 1949)” shall be substituted.

3. *Amendment of section 4, Madras Act XXIII of 1943.*—In section 4 of the principal Act—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) Every application for a pawnbroker's licence shall be in writing and shall be made to the licensing authority prescribed under this Act.”;

(b) to sub-section (2), the following proviso shall be added, namely :—

“Provided that the licence shall not be refused under this sub-section unless the applicant has had a reasonable opportunity of making his representations.”;

(c) for sub-section (3), the following sub-sections shall be substituted, namely :—

“(3) In granting or refusing to grant a licence under this section, the licensing authority may consult such authority or officer as may be prescribed.

(3-A) Any person aggrieved by an order of the licensing authority refusing to grant a licence under this section may, within such time as may be prescribed, appeal to such authority as the State Government may specify in this behalf and such authority may make such order in the case as it may think fit.”.

4. *Amendment of section 6, Madras Act XXIII of 1943.*—For sub-section (1) of section 6 of the principal Act, the following sub-section shall be substituted, namely :—

“(1) No pawnbroker shall charge interest in respect of a loan on a pledge at a rate exceeding—

(a) twelve per cent per annum simple interest in the case of loans of one hundred and fifty rupees and below; and

(b) ten and a half per cent per annum simple interest in other cases.”

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5. *Substitution of new section for section 8, Madras Act XXIII of 1943.*—For section 8 of the principal Act, the following section shall be substituted, namely :—

“ 8. *Conditions relating to redemption of pledge.*—(1) In the absence of a decree or an order of a civil court, or an order of a magistrate or an officer of Police not below the rank of sub-inspector prohibiting the delivery by the pawnbroker, of the pledge, to the pawner, the pawner shall, on production of the pawn-ticket and on payment of the sum legally payable in respect thereof, be entitled to the delivery of the pledge.

(2) On a declaration in the prescribed form from the pawner that the right to redeem the pledge has been transferred to, or is vested in, some other person and on a declaration from that other person that he is in possession of the pawn-ticket and that he is entitled to redeem the pledge, the pawnbroker shall cause an endorsement to be made on the pawn-ticket that the holder thereof is such other person, and shall cause the necessary entry to be made in the pledge book and thereafter the former person's right to redeem shall be extinguished and such other person shall be deemed to be the pawner for the purposes of this section.

(3) Where a person claiming to be the messenger or agent of the pawner produces the pawn-ticket and offers to redeem the pledge, the pawnbroker may, after obtaining from the person so claiming, a declaration in the prescribed form, allow redemption if the pawnbroker is satisfied that the person who claims to be such messenger or agent is in fact such messenger or agent :

Provided that such pawnbroker shall remain liable to compensate the pawner if it be found later that such messenger or agent had not in fact been duly authorised by the pawner to redeem the pledge;

Provided further that, where a person claiming to be the messenger or agent of the pawner produces the pawn-ticket and offers to redeem the pledge, the pawnbroker may send a notice in the prescribed form by registered post to the pawner to the address left by the pawner with the pawnbroker, and if he does not hear anything from the pawner contrary to the claim within two weeks after the date on which the notice would in the usual course of post reach the pawner, the pawnbroker may allow the person claiming to be such messenger or agent to redeem the pledge and shall in that event be exonerated from further liability to the pawner or any person claiming under him.

(4) (a) Where the pawner is dead and a person produces the pawn-ticket claiming to be the legal representative of the pawner and offers to redeem the pledge, the pawnbroker shall allow such redemption, after obtaining from such person—

(i) a declaration in the prescribed form duly made by such person before any magistrate or judge; and

(ii) a bond duly executed by such person with one or more sureties to the satisfaction of the pawnbroker or of such authority or person as may be prescribed in this behalf, agreeing to

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indemnify the pawnbroker in respect of any liability which may be incurred by him by reason of delivering the pledge or otherwise acting in conformity with the declaration :

Provided that no such declaration or bond shall be necessary if such person produces an order of a civil court having jurisdiction to entertain a suit for the redemption of the pledge, authorizing him to redeem the pledge as the legal representative of the deceased pawner and in any such case, the pawnbroker shall allow redemption.

(b) The amount of every bond executed under clause (a) shall be fixed with due regard to the circumstances of the case and shall not be excessive.

(5) Where a person comes into possession of a pawn-ticket as the assignee of the pawner, such person shall give notice of such assignment to the pawnbroker in the prescribed form, but the pawnbroker shall not be bound to recognize the claim of such person to redeem the pledge unless the pawner intimates to the pawnbroker the fact of such assignment or unless the pawnbroker, after having sent a notice in the prescribed form by registered post to the pawner to the address left by the pawner with the pawnbroker intimating to him the claim made under the alleged assignment, does not hear anything from the pawner contrary to the claim within two weeks after the date on which the notice would in the usual course of post reach the pawner.

(6) Where the pawner alleges that the pawn-ticket has been lost or destroyed and claims redemption of the pledge, the pawnbroker shall, after obtaining from the pawner, a declaration in the prescribed form allow such redemption unless the pawnbroker has received intimation from any other person that he is in possession of the pawn-ticket and is entitled to redeem the pledge :

Provided that, before allowing such redemption, the pawnbroker may insist on security to his satisfaction or to the satisfaction of such authority or person as may be prescribed in the behalf being given by the pawner against possible claim by any other person.

(7) . . . Where a person claims to be the owner of a pledge and alleges that the pledge was pawned without his knowledge or authority, the pawnbroker shall take a declaration from such person in the prescribed form and send a notice in the prescribed form by registered post to the pawner to the address left by the pawner with the pawnbroker, and similarly to every other person who has made any claim to the pawnbroker of being entitled to redeem the pledge, and if the pawnbroker does not receive any communication in writing from the pawner or any other such person prohibiting the delivery of the pledge to the claimant, within two weeks after the date on which the notice or notices would in the usual course of post reach the addressee or addressees,

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the pawnbroker may allow the claimant to redeem the pledge, and the pawnbroker shall in that event be exonerated from further liability to the pawner or any person claiming under him.”.

* * * *

6. *Omission of section 9, Madras Act XXIII of 1943.*—Section 9 of the principal Act shall be omitted.

7. *Amendment of section 10, Madras Act XXIII of 1943.*—In section 10 of the principal Act—

(1) in sub-section (1)—

(a) in clause (a)—

(i) in sub-clause (iv), the word “ and ” occurring at the end shall be omitted;

(ii) in sub-clause (v), the word “ and ” shall be added at the end; and

(iii) after sub-clause (v), the following sub-clause shall be added, namely:—

“ (vi) such other particulars as may be prescribed; ”;

(b) to clause (d), the following proviso shall be added, namely:—

“ Provided that no such statement shall be required to be furnished to a pawner if he is supplied by the pawnbroker with a pass book in the prescribed form containing an up-to-date account of the pawnbroker's transactions with the pawner. ”;

(2) for sub-section (2), the following sub-section shall be substituted, namely:—

“ (2) All records or entries made in the books, accounts and documents referred to in sub-section (1) shall be either in English or in such language of the locality as may be prescribed; and all such books, accounts and documents referred to in sub-section (1) shall be either in English or in such language of the locality as may be prescribed; and all such books, accounts and documents and all pledges taken by the pawnbroker shall be open to inspection at any time by the Inspector having jurisdiction. ”

8. *Insertion of new sections 10-A and 10-B in Madras Act XXIII of 1943.*—After section 10 of the principal Act, the following sections shall be inserted, namely:—

“ 10-A. *Pawnbroker to keep pledge in his shop or place of business.*—Every pawnbroker shall ordinarily keep every pledge in the shop or place of business for which the licence has been granted. If in any case, the pawnbroker keeps the pledge in any place other than such shop or place of business, he shall, within a period of seven days from the date on which the holder of a pawn-ticket intimates his desire to inspect the pledge concerned, produce such pledge at the shop or place of business aforesaid for such inspection.

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10-B. Appointment of inspectors and their powers.—(1) The State Government or any authority or officer empowered by them may, by notification, appoint one or more persons to be Inspectors for the purposes of this Act and specify in such notification the local limits of their jurisdiction.

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

(3) (a) A magistrate of the first-class in the mufassal or a Presidency Magistrate in the Presidency-town may, on receiving a report from an Inspector or from any police officer not below the rank of Sub-Inspector that—

(i) any person carries on business as a pawnbroker without a licence at any place within the jurisdiction of such magistrate, or

(ii) any pawnbroker carries on business in contravention of the provisions of this Act or the rules made thereunder or the conditions of the licence granted under this Act, at any place within the jurisdiction of such magistrate,

issue a warrant empowering the Inspector or, as the case may be, such police officer to enter such place with such assistants as he considers necessary and inspect the books, accounts, records, files, documents, safes, vaults and pledges in such premises. On receiving such warrant, the Inspector or the police officer may enter the place and inspect the books, accounts, records, files, documents, safes, vaults and pledges in such premises and may take to his office for further investigation such books, accounts, records, files and documents as he considers necessary :

Provided that if the Inspector or the police officer removes from the premises any books, accounts, records, files and documents, he shall give to the person in charge of the place, a receipt describing the books, accounts, records, files and documents so removed by him :

Provided further that within twenty-four hours of the removal of the books, accounts, records, files and documents from the premises, the Inspector or the police officer shall either return them to the person from whose custody they were removed or produce them in the court of the Magistrate who issued the warrant. Such Magistrate may return the books, accounts, records, files and documents or any of them to the person from whose custody they were removed by the Inspector or the police officer, after taking from such person such security as the Magistrate considers necessary for the production of the books, accounts, records, files and documents when required whether by the Inspector, the police officer or the court, or may pass such other orders as to their disposal as appear just and convenient to the Magistrate.

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(b) An Inspector shall have authority to require any person whose testimony he may require regarding any loan or pledge or any other transaction of a pawnbroker to attend before him or to produce or cause to be produced any document and to examine such person on oath.

(4) An Inspector may apply for assistance to an officer-in-charge of a police station and take police officers to accompany and assist the Inspector in performing his duties under this Act."

9. Substitution of new sections for sections 11 and 12, Madras Act XXIII of 1943.—For sections 11 and 12 of the principal Act, the following sections shall be substituted, namely :—

" 11. *Redemption of pledge.*—(1) Every pledge shall be redeemable within one year from the date of pawning, exclusive of that day; and there shall be added to that year of redemption seven days of grace within which every pledge shall continue to be redeemable.

(2) A pledge shall further continue to be redeemable until it is disposed of as provided in this Act, although the period of redemption and days of grace have expired.

Explanation.—Where the contract between the parties provides a longer period for redemption than one year, the provisions of this section shall be read and construed as if references to such longer period had been substituted for the references to the period of one year therein.

12. Sale of pledge and inspection of sale book.—(1) A pledge pawned shall not be disposed of by the pawnbroker otherwise than by sale at a public auction, conducted in accordance with such rules as may be prescribed.

(2) Where the highest bid at the sale by auction is the bid of the pawnbroker, the sale shall not take effect unless the bid is for a sum exceeding the sum payable on the pawn inclusive of interest and prescribed charges

(3) At any time within three years after the public auction, the holder of the pawn-ticket may inspect the entry relating to the sale either in the pawnbroker's book or in such catalogue of the auction as may be prescribed.

(4) (a) Where a pledge has been sold for more than the amount of the loan and the interest and prescribed charges due at the time of the sale, the pawnbroker shall pay to the ^{sale} the pawn ticket on demand made within necessary costs and prescribed surplus after deducting therefrom charges of the

(b) If on such demand it appears that the sale of the pledge has resulted in a surplus but that within twelve months before such sale, the sale of any other pledge or pledges of the same

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person has resulted in a deficit, the pawnbroker may set off the deficit against the surplus and shall be liable to pay only the balance, if any, after such set off."

10. Amendment of section 13, Madras Act XXIII of 1943.—In sub-section (1) of section 13 of the principal Act, for the words "Where a pledge is destroyed or damaged by or in consequence of fire" the words "Where a pledge is lost by theft . . . or is destroyed or damaged by or in consequence of fire," shall be substituted.

11. Insertion of new sections 14-A to 14-D in Madras Act XXIII of 1943.—After section 14 of the principal Act, the following sections shall be inserted, namely:—

"14-A. *Power to cancel licences, etc.*—(1) The licensing authority specified in sub-section (1) of section 4 may, at any time, during the term of any licence, cancel it by an order in writing—

(a) if the licensee carries on the business in contravention of any of the provisions of this Act or the rules made thereunder or of the conditions of the licence, or

(b) if any reason for which such authority could have refused to grant the licence to the pawnbroker under sub-section (2) of section 4, is brought to the notice of that authority after the grant of the licence, or

(c) if the licensee is convicted for an offence under sub-section (1) of section 15, or

(d) if the licensee maintains false accounts.

(2) Before cancelling a licence under sub-section (1), the licensing authority shall give the licensee a notice in writing stating the grounds on which it is proposed to take action and requiring him to show cause against it within such time as may be specified in the notice.

(3) Any person aggrieved by an order of the licensing authority cancelling a licence under sub-section (1), may, within such time as may be prescribed, appeal to such authority as the State Government may specify in this behalf and such authority may make such order in the case as it may think fit.

14-B. Publication of order of cancellation.—Every order of cancellation of a licence under section 14-A shall be notified in the District Gazette and also on the notice-board of the office of the licensing authority.

14-C. Compensation for cancellation of licence.—A person whose licence is cancelled under section 14-A shall not be entitled to any compensation in respect of such licence. A person to whom any fee has been paid in respect of such licence, shall be entitled to the refund of any fee paid in respect of such licence.

14-D. Auctioneers to maintain certain registers.—(1) Auctioneers conducting sales under this Act of pledges shall maintain such registers containing such particulars as may be prescribed.

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(2) At any time within three years after the public auction, any police officer not below the rank of Sub-Inspector may inspect the registers referred to in sub-section (1) at all reasonable times and at such place as may be perscribed."

12. *Substitution of new section for section 16, Madras Act XXIII of 1943.*—For section 16 of the principal Act, the following section shall be substituted, namely :—

" 16. *Certain other acts of pawnbrokers to be punishable.*—A pawnbroker, who—

(1) takes an article in pawn from any person appearing to be under the age of eighteen years, or to be of unsound mind; or

(2) purchases or takes in pawn or exchanges a pawn-ticket issued by another pawnbroker; or

(3) employs any person under the age of eighteen years to take pledges in pawn; or

(4) under any pretence purchases, except at a public auction, any pledge while in pawn with him; or

(5) suffers any pledge while in pawn with him to be redeemed with a view to his purchasing it; or

(6) makes any contract or agreement with any person pawning or offering to pawn any article, or with the owner thereof, for the purchase, sale or disposition thereof within the time of redemption; or

(7) sells or otherwise disposes of any pledge pawned with him except at such time and in such manner as is authorized by or under this Act, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both."

13. *Omission of section 20, Madras Act XXIII of 1943.*—Section 20 of the principal Act shall be omitted.

14. *Amendment of section 21, Madras Act XXIII of 1943.*—In the first paragraph of section 21 of the principal Act—

(i) for the words and brackets " Where a pawnbroker is guilty of an offence against this Act (not being an offence against any provision of this Act relating to licences)," the words " Where a pawnbroker is guilty of an offence under this Act or where his licence is cancelled under any of the provisions of this Act " shall be substituted;

(ii) after the words " that offence " in both the places where those words occur, the words " or cancellation " shall be inserted;

(iii) the following words shall be added at the end, namely :—

" nor shall that offence or cancellation affect any obligation or liability incurred by the pawnbroker before that offence or cancellation."

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15. *Amendment of section 22, Madras Act XXIII of 1943.*—In section 22, of the principal Act—

(1) in sub-section (1), the words “ after previous publication ” shall be omitted;

(2) for sub-section (3), the following sub-sections shall be substituted, namely :—

“ (3) All rules made under this Act shall be published in the *Fort St. George Gazette* and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(4) Every rule made under this Act shall, as soon as possible after it is made, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

FORT ST. GEORGE, MADRAS-9,
27th July 1961.

T. HANUMANTHAPPA,
Secretary.

வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS